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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/161668

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 3, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly ended the Petitioner's FoodShare benefits in October 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Pang Thao-Xiong, Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W. Vliet St., Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 17, 2014, the agency sent the Petitioner a notice indicating that his FoodShare benefits would be ending effective October 1, 2014, because he did not complete his renewal. The

- notice further told the Petitioner that he needed to contact the agency before the end of September, if he wanted his benefit to continue. (Exhibit 2, pgs. 11-14)
3. The Petitioner called the agency on September 23, 2014 to complete his renewal. (Exhibit 2, pg. 7)
  4. On September 24, 2014, the agency sent the Petitioner a Notice of Proof Needed, indicating that he needed to provide verification of his [REDACTED] by October 3, 2014. The notice advised the Petitioner that he should, "Contact us right away if you have questions or problems getting the proof and we will help you." (Exhibit 2, pgs. 15-18)
  5. The Petitioner did not provide the requested verification by October 3, 2014. (Testimony of Ms. Thao-Xiong; statement of Petitioner)
  6. On October 6, 2014, the agency sent the Petitioner a notice indicating that his request for FoodShare benefits was denied because he did not provide the requested proof. (Exhibit 2, pgs. 24-28)
  7. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 3, 2014.

### DISCUSSION

"Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide required verification." 7 CFR 273.2(f); See also *FoodShare Handbook (FSH)* §1.2.1

"Requests for verification MUST be made in writing. Verbal requests are not acceptable and will not stand up in a fair hearing. Workers are required to give the customer notice regarding required verification, when it is due to the agency and the consequences of not verifying timely" *FSH* §1.2.1.2; 7 CFR 273.2(c)(5)

The applicant has the primary responsibility to provide verification. However, the local agency must assist the applicant in obtaining the verification, as long as the applicant has not refused to cooperate with the application process. *FSH* §1.2.1.2; 7 CFR 273.2(f)(5)(i)

When requested income verification is not timely received, the agency may correctly close the case, but not before the 10<sup>th</sup> day after requesting the verification. *FSH* §1.2.1.2

In the case at hand, the agency sent Petitioner a notice on September 24, 2014, stating that he needed to provide verification of his [REDACTED] by October 3, 2014. This only gave the Petitioner nine days to provide verification. Consequently, the agency did not correctly close the Petitioner's case in October 2014 and it will have to issue a new notice of proof needed.<sup>1</sup>

At the hearing the Petitioner indicated that he was having difficulty providing the requested verification, because of his age and health, and because he misplaced the letter from [REDACTED] that told him what his [REDACTED] would be.

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<sup>1</sup> It should be noted that while this appeal was pending, the Petitioner reapplied for FoodShare benefits. On November 4, 2014, the agency issued another Notice of Proof Needed, requesting verification of the Petitioner's [REDACTED]. The notice further stated that the verification was due by December 3, 2014.

However, this appeal deals with the Notice of Proof Needed dated September 24, 2014 and the subsequent denial of benefits on October 6, 2014 and whether those actions were correct. As such, the order issued in this case must remedy any deficiency in those notices.

Per *FSH* §1.2.1.2; 7 *CFR* 273.2(f)(5)(i) the agency should provide assistance to the Petitioner, **if he requests that assistance and continues to be cooperative.**

The Petitioner should also note that he is being given a substantial amount of time to provide the verification of his [REDACTED]. He and his roommate/helper need to follow through and provide verification, if he wants to continue his FoodShare benefits.

Although, state agencies are required to use any reasonable documentary evidence as the primary source of verification, "acceptable verification shall not be limited to any single type of document..." 7 *CFR* 273.2(f)(4)(i) and 7 *CFR* 273.2(f)(5)(i) Verification may also be oral confirmation from a person outside the household, such as a landlord or employee at [REDACTED] 7 *CFR* 273.2(f)(4)(ii)

### **CONCLUSIONS OF LAW**

The agency did not correctly close Petitioner's FoodShare case effective October 2014.

**THEREFORE, it is**

**ORDERED**

If the Petitioner has not already provided the requested verification, the agency shall issue to the Petitioner a new Notice of Proof Needed, giving him ten days to provide verification of his [REDACTED]. The agency shall provide assistance to the Petitioner, if he requests it.

Upon timely receipt of the requested verification, the agency shall backdate the Petitioner's FoodShare benefits to October 1, 2014.

The agency shall take all administrative steps to complete these tasks within 20-days of this decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 5th day of December, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 5, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability